

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2008CA3773
)	EEOC NO.: 21BA82427
BARBARA STIMATZ)	ALS NO.: 09-0659
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Marti Baricevic, Robert S. Enriquez, and Gregory Simoncini presiding, upon Barbara Stimatz's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2008CA3773; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On April 24, 2008, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged her employer Illinois Bell Telephone Company ("Employer") subjected her to unequal terms and conditions of employment because of her sex, female (Count A), and her age, 50 (Count B), and issued her a written warning because of her sex (Count C) and her age (Count D), in violation of Section 2-102(A) of the Illinois Human Rights Act (the "Act"). On May 27, 2009, pursuant to the Petitioner's request, the Respondent administratively closed Counts C and D. On October 20, 2009, the Respondent dismissed the remaining Counts A and B of the Petitioner's charge for Lack of Substantial Evidence. On November 18, 2009, the Petitioner filed a timely Request, wherein only the dismissal of Counts A and B are before the Commission for review.
2. The Petitioner is employed as a customer systems technician. The Employer assigns its technicians "bucket trucks" so that its technicians may ascend in order to service telephone lines on telephone poles.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

3. In December 2008, the Employer ordered five (5) new bucket trucks in order to replace old bucket trucks that were experiencing maintenance problems. At this time, the Petitioner's bucket truck was operational.
4. In January 2008, the Petitioner's bucket truck broke. The Petitioner alleged in her charge that she was not given a new bucket truck on January 29, 2008. Rather, the Employer gave the Petitioner a used, but operational, bucket truck to replace her broken bucket truck.
5. On March 26, 2008, the Employer issued the Petitioner a written warning for failing to meet mandatory overtime expectations.
6. The Petitioner contends in her charge and her Request that she was denied a new bucket truck and issued the written warning because of her sex and her age.
7. In its Response, the Respondent requests that the Commission sustain the dismissal of the Petitioner's charge for lack of substantial evidence. The Respondent found no substantial evidence the Employer was motivated by a discriminatory animus in either the assignment of the used bucket truck or the issuance of the written warning. Further, the Respondent determined that younger, male employees had also not received new bucket trucks.

Conclusion

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747 (March 7, 1995), 1995 WL 793258 (Ill.Hum.Rts.Com.).

In this case, the Commission finds no substantial evidence the Employer took any adverse action against the Petitioner either because of her sex or her age. There is no evidence that employees outside of the Petitioner's protected classes were treated more favorably. In her Request, the Petitioner presented no evidence from which a reasonable person could conclude the Petitioner was being discriminated against because of her sex or her age. The Petitioner's mere speculation or belief that she was being discriminated against does not constitute substantial evidence of discrimination. See Willis v. IDHR, 307 Ill.App.3d 317, 718 N.E.2d 240 (4th Dist. 1999).

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Bell Telephone Company, as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

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Entered this 26th day of May 2010.

Commissioner Marti Baricevic

Commissioner Robert S. Enriquez

Commissioner Gregory Simoncini